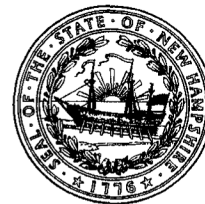




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 26, 2005

Champlain Oil Company, Inc.
Attn: Bryan Cairns
PO Box 2126
South Burlington, VT 05403-2126

Re: Docket No. AF 04-041 Motion to Accept Settlement Agreement

Dear Mr. Cairns:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on April 21, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael J. Scalfano
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
James Martin, DES Public Information Officer
Lynn A. Woodard, DES WMDT
Thomas R. Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Champlain Oil Company, Inc.
45 San Remo Drive-PO Box 2126
South Burlington, VT 05403-2126

**ADMINISTRATIVE FINE
No. AF 04-041**

Re: Charlestown Jiffy Mart, 200 Main Street
Charlestown, NH-UST #0-110470

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Champlain Oil Company, Inc. parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Champlain Oil Company, Inc. ("Champlain") is the registered facility owner of four underground storage tanks ("UST") systems at the Charlestown Jiffy Mart facility ("the Facility"), further identified as UST #0-110470, located on real property at 200 Main Street, Charlestown, NH ("the Property").
3. On August 27, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-041 ("Administrative Fine") to Champlain seeking fines totaling \$6,100 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited Champlain for violating Env-Wm 1401.21(1) by failing to display and permanently affix a certificate bearing the Facility's tank information. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
5. The Notice further cited Champlain for violating Env-Wm 1401.2(c) and (d) by failing to provide the minimum 5-gallon capacity for the four spill containment devices and by failing to properly install and maintain overfill protection equipment on all four UST systems. Pursuant to Env-C 607.05(j) the Division sought a fine of \$800.
6. The Notice further cited Champlain for violating Env-Wm 1401.30(b). Pursuant to Env-C 607.03(j) the Division sought a fine of \$3,000.
7. The Notice further cited Champlain for violating Env-Wm 1401.31(a). Pursuant to Env-C 607.05(d) the Division sought a fine of \$2,000.

8. The Notice further cited Champlain for violating Env-Wm 1401.32 (c). Pursuant to Env-C 607.04(b) the Division sought a fine of \$200.
9. In order to settle this matter, the Division and Champlain have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
10. Of the proposed fine in the amount of \$6,100, 20% or \$1,220 shall be suspended due to this being a one-time, unintentional violation. An additional 20% or \$1,220 shall be suspended due to the respondent's history of compliance. An additional 20% or \$1,220 shall be suspended due to the respondent's cooperation in returning the facility to a compliance status.
11. The suspended portion of the proposed fine, in the amount of \$3,660, is contingent on Champlain maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Champlain fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$3,660 shall become due and payable immediately. If Champlain maintains compliance for the prescribed two-year period, the suspended portion of the fines shall be waived.
12. Champlain agrees to pay the remaining \$2,440 upon execution of this Agreement by Champlain.
13. Payment under Paragraph #12, and any payment that becomes due pursuant to Paragraph #11 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095
14. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, Department of Environmental Services ("DES") may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
15. By executing this Agreement, Champlain waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
16. The effective date of this Agreement will be upon signature by an authorized representative of Champlain, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both

parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

17. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Champlain Oil Company, Inc.

4/8/05
Date

COPY
By: Charles A. Cairns, President
Duly Authorized

4/21/05
Date

DES Waste Management Division
COPY
Anthony Giunta, Director

This Motion to Accept Settlement agreement is granted this 21st day of APRIL, 2005

COPY
Michael J. Nolan, Commissioner
Department of Environmental Services